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SUBJECT: AES-GENER: Chilean Minister of Housing Promises to Resolve
Campiche Power Plant Problem By the End of 2009

REF: SANTIAGO 1026; SANTIAGO 893; SANTIAGO 783

¶11. (SBU) Summary: The Minister of Housing assured the Ambassador that by year's-end she will resolve the regulatory confusion that has undermined a large investment by AES-Gener, a U.S. electric company. In delivering a letter from Commerce Secretary Locke to President Bachelet on AES, the Ambassador met with Bachelet's foreign policy advisor and Ministers of Interior, Commerce, Energy, and Housing to urge prompt resolution of the problem. The GOC clearly recognizes the potential the AES case has to damage its favorable investment climate and the need to correct the situation.
End summary.

Message Delivered: Letter from Secretary Locke to President Bachelet

¶12. (SBU) On October 30, the Ambassador provided Marcos Robledo, President Bachelet's senior foreign policy advisor, with the letter from Commerce Secretary Locke to President Bachelet regarding the problems facing AES, a U.S. electric company (reftels). Construction at the company's Campiche power plant project was shut down due to the Chilean Supreme Court's invalidation of an environmental permit. The letter acknowledges the GOC's efforts to develop a solution to AES's situation, and requests that it take appropriate, timely measures to develop a positive outcome for the company and its investment project. Stating that the GOC is committed to finding a solution, Robledo promised to pass the letter to President Bachelet and other interested parties.

Ministers All Point to Ministry of Housing

¶13. (SBU) The Ambassador delivered copies of the Locke letter to Minister of Interior Edmundo Perez Yoma (November 4), Minister of Energy Marcelo Tokman (November 6) and Minister of Economy, Development, and Reconstruction Hugo Lavados (November 9). All the ministers indicated that they were aware of the situation and the need for the GOC to resolve the matter to avoid a negative impact on Chile's investment climate. They also all indicated that the issue was within the purview of the Ministry of Housing, and Perez Yoma opined that the company had not done enough to burnish its

public image or build relations with the community around the Campiche project.

Housing Minister Promises to Resolve Matter by End of 2009

¶4. (SBU) The Ambassador met with Minister of Housing Patricia Poblete on November 9 to deliver a copy of the letter and to press for a solution on Campiche as quickly as possible. Claiming to have received many requests to find a way forward so that AES Gener could resume work on the plant, including a call from President Bachelet and a letter from the Government of South Korea, Poblete took great pains to reassure the Ambassador it is her top priority and that the GOC aims to resolve the issue before the end of the year.

¶5. (SBU) Poblete also noted, however, that under the zoning plan or "Plan Regulador" ("the Plan") for the Valparaiso Region, where Campiche is located, there are very clear and strict limitations on

industrial projects. She alleged that AES Gener never had permission to build at Campiche, and maintained that the company should have approached her ministry long before it began work on the project. She lamented that, instead of coming to her directly, the company had wasted time in trying to work out a solution with the Ministry of Energy and claimed the solution at this stage is to amend the Plan to accommodate the Campiche project.

¶6. (SBU) Poblete explained that Ministry of Housing staff had already proposed changes to the Plan once on behalf of the regional environmental council (COREMA), which holds jurisdiction over Campiche. The General Controller's office, which assesses the legality of GOC decisions and decrees, returned the draft with 66 queries and requested changes. The Ministry recently finished addressing those questions and changes, and used back-channel communications with the General Controller's office to ensure the responses will be acceptable. The document still needs to be formally resubmitted to the General Controller's office by the COREMA. Poblete seemed confident that this step would clear the way to amend the Plan.

¶7. (SBU) Poblete was scheduled to meet with Ministers Perez Yoma and Tokman, as well as the Mayor of Valparaiso Jorge Castro on November 10 [Note: Post later learned that this meeting took place and also included Minister of Environment Ana Lya Uriarte. End note.]. She said they would use the meeting to strategize about expediting a resolution to the AES Gener issue. Poblete vowed the GOC would solve the situation, resorting to an executive decree, if necessary. Poblete emphasized that preserving Chile's favorable investment climate is critical to continued growth and promised to follow up with the Ambassador on any significant developments.

AES-Gener Guardedly Optimistic on Resolution before March 2010

¶8. (SBU) On November 19, Emboffs met with AES-Gener Director General Felipe Ceron, who had met with Poblete after the Ambassador and learned that amending the Plan would likely take longer than previously expected. He explained that it was decided, at the

November 10 meeting between the ministers and mayor, that the amendments to the Plan would require both a 60-day public comment period and an environmental review. These steps make February 2010 the earliest possible date for changes to the Plan that would allow AES to resume construction.

¶9. (SBU) Ceron believes that in order to resolve the issue before the next Chilean administration takes office in March 2010, Poblete will have to amend the zoning ordinances by executive decree. This process, which is also subject to review by the General Controller's office, can be done much more quickly, possibly in a matter of weeks. However, he does not think the measure is likely to be considered before the December 13 presidential and congressional elections.

¶10. (SBU) While the company continues to face financial hardship due to stopping construction on the project, it is unclear exactly when it would be forced to pull out of Campiche if there is no resolution. Ceron cautioned that the situation would become dire if AES's South Korean contractors should at any given moment demand payment. According to Ceron, the South Korean embassy has also been advocating with the GOC to resolve the matter.

¶11. (SBU) In contrast to several prior meetings, Ceron responded affirmatively to questions about public outreach saying that AES has been meeting with the Mayor of Valparaiso and community groups, including environmentalists. Citing no movement on an offer AES

made to the mayor to help on a much-needed sewage treatment project, he seemed somewhat pessimistic that these efforts would mitigate the (false) impression that the company is a major area polluter. [Note: In fact, AES inherited many environmental challenges from the previous occupier of the site, and there is a large state-owned copper smelter that has caused many of the environmental problems blamed on AES. End note.]

Comment: Resolution Likely Before March 2010

¶12. (SBU) The open-ended timeframe to clarify zoning laws continues to be a concern for AES because, if the matter is not resolved before the change in Chilean administration in March 2010, the issue would likely drag on as key players will no longer be in place. However, the Bachelet administration is clearly aware of the importance of correcting a troubling investment setback and maintaining Chile's reputation as a safe place to invest. The GOC is actively looking for a solution, and post is cautiously optimistic that the legal framework will be corrected, likely by executive decree, before March 2010, if not by the end of this year. End comment.

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